

AMENDED IN SENATE SEPTEMBER 11, 2009

AMENDED IN SENATE SEPTEMBER 10, 2009

AMENDED IN SENATE SEPTEMBER 4, 2009

AMENDED IN SENATE JULY 1, 2009

AMENDED IN ASSEMBLY APRIL 27, 2009

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 569

**Introduced by Assembly Members ~~Emmerson and Solorio~~ Member
Emmerson
(Principal coauthor: Senator Correa)**

February 25, 2009

~~An act to add Section 6612 to, and to add and repeal Section 10187 of, the Public Contract Code, relating to public contracts, and declaring the urgency thereof, to take effect immediately. An act to amend Section 512 of the Labor Code, relating to employment.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 569, as amended, Emmerson. ~~Public contracts: disabled veteran business enterprise: small business enterprise. Meal periods: exemptions.~~

Existing law prohibits, subject to certain exceptions, an employer from requiring an employee to work more than 5 hours per day without providing a meal period and, notwithstanding that provision, authorizes the Industrial Welfare Commission to adopt a working condition order permitting a meal period to commence after 6 hours of work if the order is consistent with the health and welfare of affected employees.

This bill would exempt from these provisions employees in a construction occupation, commercial drivers in the transportation industry, and employees in the security services industry employed as security officers if those employees are covered by a valid collective bargaining agreement containing specified terms, including meal period provisions. It would specify that its provisions do not affect the requirements for meal periods for certain other employees or employers.

~~Under existing law, state agencies and all other state entities contracting for materials, supplies, equipment, alteration, repair, or improvement are required to meet specified participation goals for disabled veteran business enterprises and small business enterprises.~~

~~This bill would provide that, for any contract advertised by a state agency or department on or before July 28, 2009, the state agency or department shall award the contract to the lowest responsible bidder meeting or making a good faith effort to meet existing disabled veteran business enterprise goals. This bill would additionally require a department, until January 1, 2014, when awarding a public works contract to the lowest responsible bidder, to consider the efforts of a bidder to meet the disabled veteran business enterprise goals, subject to specified documentation required of the responding bidder.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 512 of the Labor Code is amended to
2 read:
3 512. (a) An employer may not employ an employee for a work
4 period of more than five hours per day without providing the
5 employee with a meal period of not less than 30 minutes, except
6 that if the total work period per day of the employee is no more
7 than six hours, the meal period may be waived by mutual consent
8 of both the employer and employee. An employer may not employ
9 an employee for a work period of more than 10 hours per day
10 without providing the employee with a second meal period of not
11 less than 30 minutes, except that if the total hours worked is no
12 more than 12 hours, the second meal period may be waived by

1 mutual consent of the employer and the employee only if the first
2 meal period was not waived.

3 (b) Notwithstanding subdivision (a), the Industrial Welfare
4 Commission may adopt a working condition order permitting a
5 meal period to commence after six hours of work if the commission
6 determines that the order is consistent with the health and welfare
7 of the affected employees.

8 (c) Subdivision (a) does not apply to an employee in the
9 wholesale baking industry who is subject to an Industrial Welfare
10 Commission wage order and who is covered by a valid collective
11 bargaining agreement that provides for a 35-hour workweek
12 consisting of five ~~seven-hour~~ 7-hour days, payment of ~~1 and~~ $\frac{1}{2}$
13 *one and one-half times* the regular rate of pay for time worked in
14 excess of seven hours per day, and a rest period of not less than
15 10 minutes every two hours.

16 (d) If an employee in the motion picture industry or the
17 broadcasting industry, as those industries are defined in Industrial
18 Welfare Commission Wage ~~Orders~~ *Order Numbers* 11 and 12, is
19 covered by a valid collective bargaining agreement that provides
20 for meal periods and includes a monetary remedy if the employee
21 does not receive a meal period required by the agreement, then the
22 terms, conditions, and remedies of the agreement pertaining to
23 meal periods apply in lieu of the applicable provisions pertaining
24 to meal periods of subdivision (a) of this section, Section 226.7,
25 and Industrial Welfare Commission Wage ~~Orders~~ *Order Numbers*
26 11 and 12.

27 (e) *Subdivisions (a) and (b) do not apply to an employee*
28 *specified in subdivision (f) if both of the following conditions are*
29 *satisfied:*

30 (1) *The employee is covered by a valid collective bargaining*
31 *agreement.*

32 (2) *The valid collective bargaining agreement expressly provides*
33 *for the wages, hours of work, and working conditions of employees,*
34 *and expressly provides for meal periods for those employees, final*
35 *and binding arbitration of disputes concerning application of its*
36 *meal period provisions, premium wage rates for all overtime hours*
37 *worked, and a regular hourly rate of pay of not less than 30 percent*
38 *more than the state minimum wage rate.*

39 (f) *Subdivision (e) applies to each of the following employees:*

40 (1) *An employee employed in a construction occupation.*

1 (2) An employee employed as a commercial driver in the
2 transportation industry.

3 (3) An employee employed in the security services industry as
4 a security officer who is registered pursuant to Chapter 11.5
5 (commencing with Section 7580) of Division 3 of the Business and
6 Professions Code, and who is employed by a private patrol
7 operator registered pursuant to that chapter.

8 (g) The following definitions apply for the purposes of this
9 section:

10 (1) “Commercial driver” means an employee who operates a
11 vehicle described in subdivision (b) of Section 15210 of the Vehicle
12 Code.

13 (2) “Construction occupation” means all job classifications
14 associated with construction by Article 2 (commencing with Section
15 7025) of Chapter 9 of Division 3 of the Business and Professions
16 Code, including work involving alteration, demolition, building,
17 excavation, renovation, remodeling, maintenance, improvement,
18 and repair, and any other similar or related occupation or trade.

19 SEC. 2. Notwithstanding any other provision of law,
20 paragraphs (1) and (2) of subdivision (e) of Section 512 of the
21 Labor Code do not affect the nature or scope of the law related to
22 meal periods, including the timing of commencement of a meal
23 period, for employees or employers not specifically covered by
24 paragraphs (1) and (2) of subdivision (e) of Section 512 of the
25 Labor Code.

26 SEC. 3. Notwithstanding any other provision of law, including
27 applicable Industrial Welfare Commission orders, the addition of
28 paragraph (3) of subdivision (f) to Section 512 of the Labor Code
29 made by this act does not affect the nature or scope of the law
30 relating to meal periods for security officers who are not covered
31 by a valid collective bargaining agreement.

32 SECTION 1. ~~Section 6612 is added to the Public Contract~~
33 ~~Code, to read:~~

34 ~~6612. For any contract advertised on or before July 28, 2009,~~
35 ~~the state agency or department shall award the contract to the~~
36 ~~lowest responsible bidder meeting or making a good faith effort~~
37 ~~to meet the disabled veteran business enterprise goals established~~
38 ~~pursuant to Article 6 (commencing with Section 999) of Chapter~~
39 ~~6 of Division 4 of the Military and Veterans Code.~~

1 ~~SEC. 2.~~ Section 10187 is added to the Public Contract Code,
2 to read:

3 10187. (a) In awarding a public works contract subject to this
4 chapter to the lowest responsible bidder, the awarding department
5 shall consider the efforts of a bidder to meet the disabled veteran
6 business enterprise goals established pursuant to Article 6
7 (commencing with Section 999) of Chapter 6 of Division 4 of the
8 Military and Veterans Code. The awarding department shall award
9 the contract to the lowest responsible bidder meeting or
10 documenting specific efforts to meet these goals.

11 (b) A bidder shall be deemed to have met the specific effort
12 requirements upon submittal, within the time limits specified by
13 the awarding department, of documentary evidence that the
14 following actions were taken:

15 (1) Contact was made with the awarding department and a search
16 was conducted on the Department of General Services' California
17 certified disabled veteran business enterprise database to identify
18 disabled veteran business enterprises specific to the contract.

19 (2) Sufficient work was made available to disabled veteran
20 business enterprises to meet the contract goal.

21 (3) Subcontract bids were solicited from disabled veteran
22 business enterprise firms. When soliciting subcontractor bids, the
23 bidder shall do the following:

24 (A) Provide interested disabled veteran business enterprises
25 with information, including, but not limited to, identification of
26 the work available, the date the disabled veteran business
27 enterprise's bid was due to the bidder, the specified bonding and
28 licensing requirements, and the prime contractor's contact person.

29 (B) Give disabled veteran business enterprises no less than seven
30 calendar days to respond to a solicitation.

31 (C) Utilize various contact methods, including, but not limited
32 to, published advertising, telephone, e-mail, fax, or United States
33 mail.

34 (D) Provide the awarding department with all disabled veteran
35 business enterprise bids received. If a bid of a disabled veteran
36 business enterprise is rejected, provide the bid of the selected
37 nondisabled veteran business enterprise and the reasons for
38 rejecting the disabled veteran business enterprise bid.

39 (e) This section shall become inoperative on December 31,
40 2013, and on January 1, 2014, is repealed.

1 ~~SEC. 3. This act is an urgency statute necessary for the~~
2 ~~immediate preservation of the public peace, health, or safety within~~
3 ~~the meaning of Article IV of the Constitution and shall go into~~
4 ~~immediate effect. The facts constituting the necessity are:~~
5 ~~In order to eliminate confusion with regard to the bidding process~~
6 ~~for state contracts as soon as possible, thus preserving the quality~~
7 ~~of work provided and the health and safety of the citizens of~~
8 ~~California, it is necessary that this act take effect immediately.~~